



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

March 12, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

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Third District

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Fifth District

SACRAMENTO UPDATE

Executive Summary

This memorandum provides information on the following:

- **Pursuit of County Position on Legislation**
 - **AB 1373 (Pérez).** This measure would extend the statute of limitations on filing a death benefits claim for a firefighter or peace officer who dies of specified presumptive work-related illness. Therefore, unless otherwise directed by the Board, consistent with existing policies to oppose legislation that would erode comprehensive workers' compensation reforms and expansion of benefits for presumptive illnesses, **the Sacramento advocates will oppose AB 1373.**
 - **SB 626 (Beall).** This measure would repeal several provisions of the workers' compensation system reforms enacted in 2012, including provisions meant to streamline the medical care evaluation and dispute processes. Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose legislation that would erode comprehensive workers' compensation reforms and increase workers' compensation benefits unless it maintains a fair and equitable balance for employers and employees, **the Sacramento advocates will oppose SB 626.**

"To Enrich Lives Through Effective And Caring Service"

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- **Status of County-Advocacy Legislation**

- **County-supported SB 140 (Leno and Steinberg)** - related to the Dealers' Record of Sale Special Account for the limited purpose of addressing the current Armed Prohibited Persons System backlog, passed the Senate Floor by a vote of 31 to 0 on March 7, 2013. The bill now proceeds to the Assembly.
- **County-supported ABX1 1 (Pérez) and SBX1 1 (Hernandez and Steinberg)** - related to the expansion of Medi-Cal eligibility to persons under 65 years of age with incomes at or below 133 percent of the Federal Poverty Level and makes various changes which simplify enrollment and eligibility procedures for persons currently eligible to Medi-Cal to conform to provisions of the Federal Affordable Care Act, passed each house of the Legislature, respectively, on March 7, 2013.

Pursuit of County Position on Legislation

AB 1373 (Pérez), which as introduced on February 22, 2013, would extend the statute of limitations on filing a death benefits claim for a firefighter or peace officer who dies of specified presumptive work-related illness.

Current workers' compensation law specifies that a claim for death benefits must be commenced within one year from the last furnishing of benefits, but no proceedings may be commenced more than 240 weeks from the date of injury. As introduced, AB 1373 would instead provide that for firefighters and law enforcement officers whose death is caused by certain presumptive-type illnesses including cancer, heart disease, tuberculosis and blood borne diseases, a claim for death benefits may be filed within a longer time period, which is yet to be specified in the bill. Presumably this time period, once amended into the bill, would significantly expand the scope of coverage for these deaths.

AB 1373 is substantially similar to **County-opposed AB 2451 (Pérez) of 2012**, which would have extended the statute of limitations on filing a death benefits claim for a firefighter or peace officer who dies of a presumptive work-related illness to 480 weeks from the date of injury. The Chief Executive Office Risk Management Branch estimated that AB 2451 would have resulted additional County costs ranging from \$5.0 million to \$20 million annually. On September 30, 2012, Governor Brown vetoed AB 2451 stating

in his veto message that additional information and data is needed in order to provide an informed policy decision on this matter. He noted that without such meaningful data, he “. . . cannot expose State and local government to the serious fiscal risks enactment of this measure may entail.” AB 2451 of 2012 was supported by law enforcement and fire labor groups including: California Association of Highway Patrolmen; California Professional Firefighters; Association for Los Angeles Deputy Sheriffs; California State Sheriff's Association; Los Angeles County Professional Peace Officers Association; among others. It was opposed by government agencies and associations including: California State Association of Counties; Los Angeles County; League of California Cities; various city agencies; Solano County Board of Supervisors; among others.

This office recommends an oppose position on AB 1373. Therefore, unless otherwise directed by the Board, consistent with approved policy to: 1) oppose legislation that erodes reforms accomplished by FY 2003-04 and FY 2011-12 workers' compensation reform legislation; and 2) oppose legislation that expands existing or creates new presumptions related to injuries, illnesses, diseases, or physical conditions and that can be claimed as job-related for workers' compensation or service-connected disability retirement, **the Sacramento advocates will oppose AB 1373.**

AB 1373 is opposed by the California State Association of Counties. This measure is pending a referral to a policy committee.

SB 626 (Beall), which as introduced February 22, 2013, would repeal several provisions of the workers' compensation system reforms enacted in SB 863 (Chapter 363, Statutes of 2012), including provisions meant to streamline the medical care evaluation and dispute processes. Specifically, this bill would: 1) permit chiropractors to serve as the primary treating physicians beyond the current treatment cap; 2) allow the Workers' Compensation Appeals Board to overrule decisions by the new Independent Medical Review (IMR) process; 3) require IMR physicians to hold the same type of license as the requesting physician; 4) allow increases to permanent disability ratings for psychological findings; 5) repeal the confidentiality of IMR physicians; among other provisions.

SB 863 (De León) of 2012 was intended to reform the workers' compensation system by streamlining administrative, legal and medical processes in order to fund increases to permanent disability benefits. This included the establishment of an Independent Medical Review process, which would streamline the medical dispute process by requiring a 30-day turnaround, a flat employer fee, non- payment for self-procured treatment, and required that disability decisions be made on evidence-based treatment guidelines. Decisions made by the IMR are meant to be final and binding except in

cases with clear and convincing evidence of fraud, conflict of interest or bias. Overall, the IMR process was put in place to reduce litigation and its' associated costs. SB 863 also restricts the requirements of a qualified medical evaluator, including disallowing chiropractors from acting as a treating physician after the employee has received the maximum number of chiropractic visits allowed.

As introduced, SB 626 would repeal related provisions for these reforms to:

- Allow chiropractors to serve as Primary Treating Physicians beyond the 24-chiropractic visit cap;
- Permit the Workers' Compensation Appeals Board (WCAB) to overrule decisions made by the IMR;
- Require IMR physicians to hold the same type of California license as the physician requesting approval of the medical services;
- Allow increases to permanent disability ratings for psychological findings that were specifically precluded under the provisions of SB 863;
- Repeal the confidentiality of IMR physicians provided for by SB 863 reforms.

The Chief Executive Office Risk Management Branch (CEO-RMB) indicates that the provisions in SB 863 were negotiated by the Administration, labor and employers to create a comprehensive, revenue neutral reform and benefit increase package. SB 626 would repeal a number of the most significant reform elements. CEO-RMB notes that it is difficult to estimate the overall cost impact of SB 626 because several of these elements have yet to be fully implemented. However, according to CEO-RMB, the allowance of psychiatric disability compensations, which can be very subjective, would clearly increase permanent disability costs. In addition, allowing the WCAB to overrule medical determinations made in the IMR process would significantly increase administrative and legal costs to resolve medical issues. CEO-RMB adds that SB 626 represents significant erosion of the reforms in SB 863 of 2012 and could increase County workers' compensation costs by \$5.0 million to \$10.0 million annually.

This office recommends an oppose position on SB 626. Therefore, unless otherwise directed by the Board, consistent with existing policy to oppose legislation that erodes reforms accomplished by FY 2003-04 and FY 2011-12 workers' compensation reform legislation and oppose legislation that increases workers' compensation benefits unless it maintains a fair and equitable balance for employers and employees within the

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reforms previously adopted by the Legislature, **the Sacramento advocates will oppose SB 626.**

SB 626 is opposed by the California State Association of Counties. Currently, there is no registered opposition on file for this bill. This measure is pending a referral to a policy committee.

Status of County-Advocacy Legislation

County-supported ABX1 1 (Pérez) and SBX1 1 (Hernandez and Steinberg), which as introduced in the Special Session on Health Care Reform on January 28, 2013, are identical measures which would expand Medi-Cal eligibility to persons under 65 years of age with incomes at or below 133 percent of the Federal Poverty Level and make various changes which simplify enrollment and eligibility procedures for persons currently eligible to Medi-Cal to conform to provisions of the Federal Affordable Care Act, passed each house of the Legislature on March 7, 2013.

ABX1 1 passed the Assembly Floor by a vote of 53 to 22, and now proceeds to the Senate. SBX1 1 passed the Senate Floor by a vote of 24 to 7, and now proceeds to the Assembly. The Sacramento advocates will continue to proactively express the Board's support for these measures.

County-supported SB 140 (Leno and Steinberg), which as amended on March 4, 2013, would appropriate \$24.0 million to the California Department of Justice from the Dealers' Record of Sale Special Account for the limited purpose of addressing the current Armed Prohibited Persons System backlog, passed the Senate Floor by a vote of 31 to 0 on March 7, 2013. The bill now proceeds to the Assembly.

We will continue to keep you advised.

WTF:RA
MR:PC:ma

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants